

**United States Department of the Interior  
Bureau of Land Management**

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**Finding of No Significant Impact  
Environmental Assessment UTU-87863  
DOI-BLM-UT-C030-2010-0010-EA**

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**April, 2012**

**Good Earth Minerals Gypsum Mine**

***Location:*** Washington County, Utah

***Applicant/Address:*** Good Earth Minerals, LLC  
600 17th Street, Ste. 2800 South  
Denver, Colorado 80202-5428

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Div. of Oil, Gas & Mining

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## **FINDING OF NO SIGNIFICANT IMPACT**

**Environmental Assessment UTU-87863**

**DOI-BLM-UT-C030-2010-0010-EA**

### **Plan of Operations Good Earth Minerals Gypsum Mine**

#### **INTRODUCTION:**

The Bureau of Land Management (BLM) has conducted an environmental analysis DOI-BLM-UT-C030-2010-0010-EA for a proposed action to address the Good Earth Minerals Plan of Operation in the Blakes Lambing Ground area in southwestern Washington County. Good Earth Minerals, LLC (GEM) proposes to mine 800,000 tons of high purity gypsum from their mining claims on lands administered by the Bureau of Land Management (BLM), St. George Field Office. BLM is considering approval of private mineral resource development (i.e. mining) from Federal mining claims because the activity is an integral part of BLM's program under authority of the Mining Law as amended. Additionally, mineral resource development is recognized as an appropriate use of public lands in the St. George Field Office RMP (1999) that provides management direction for the mine claim area. BLM will consider approval of the proposed mining in a manner that (1) avoids or reduces impact on any sensitive resources and activities as identified in the St. George Field Office RMP (1999) and (2) is consistent with the rights of the Proponent and prevents unnecessary or undue degradation of the public lands.

The Good Earth Gypsum mine operations area would encompass approximately 11.5 acres of BLM administered lands located in T. 43 S., R. 17 W., NE¼ NW¼ section 24. The haul route would utilize existing roads and improve them by either constructing turnouts (Alternative A) or widening the roadway (Alternative B) and would require an additional 1 to 2 acres of disturbance. The Project is comprised of the mine operations area and the haul route.

EA# DOI-BLM-UT-C030-2010-0010, available at the St. George Field Office, is incorporated by reference for this Finding of No Significant Impact (FONSI). The Proposed Action and a No Action alternative and the two haul route alternatives, utilize existing roads and improve them by either constructing turnouts (Alternative A) or widening the roadway (Alternative B) were analyzed in the EA.

#### **FINDING OF NO SIGNIFICANT IMPACT:**

Based upon a review of the EA and the supporting documents, I have determined that the project is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and do not exceed those effects described in the St. George Field Office RMP/FEIS. Therefore, an environmental impact statement is not needed.

This finding is based on the context and intensity of the project as described:

**Context:** The project is a site-specific action directly involving approximately 13.5 acres (Proposed Action and Alternative B for the haul road) of BLM administered land that by itself

does not have international, national, regional, or state-wide importance. Good Earth Minerals, LLC (GEM) submitted a plan of operations to mine gypsum from their mining claims on lands administered by the Bureau of Land Management (BLM), St. George Field Office.

**Intensity:** The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders.

The following have been considered in evaluating intensity for this proposal:

**1. Impacts may be both beneficial and adverse.**

The proposed action would impact resources as described in the EA and may be both beneficial and adverse. Beneficial impacts of the implementing the proposed action would be economic input to the region from employment and services to support the mine operation. Adverse effects include fugitive dust, temporary removal of vegetation, temporary disturbance of wildlife habitat including the Mojave desert tortoise, and temporary removal of livestock forage.

Mitigating measures to prevent and reduce impacts to air quality, cultural resources, public safety, vegetation, soils and surface water, and wildlife were incorporated in the design of the action alternatives and would be included as terms and conditions for the GEM gypsum mine plan of operations.

None of the environmental effects discussed in detail in the EA and associated appendices are considered significant, nor do the effects exceed those described in the GEM EA.

**2. The degree to which the selected alternative will affect public health or safety.**

Alternative B, the widening of the existing Blakes Lambing Ground haul route verses Alternative A construction of turnouts for vehicle passage has been selected due to public safety concerns. Although the widening of the haul route would incur an additional 2 acres of disturbance, it would be large enough to accommodate two-lane traffic, and prevent or reduce the potential for accidents. Warning and directional signs would be placed to warn the public of heavy truck traffic and to provide directions for travel on the haul route. Terms and conditions are included in the mine plan of operations requiring compliance with all applicable Federal, state, and local laws and regulations. All fugitive emissions from this operation will be kept in compliance with the provisions in Utah Division of Air Quality (UDAQ), Fugitive Dust Control Plans, which requires spray bars, and dust suppressants to prevent excessive amounts of particulates from becoming airborne. Compliance with UDAQ orders would be mandatory as UDAQ has enforcement jurisdiction for the Clean Air Act. Freshwater would be used to control dust while mining, crushing, transporting, and road grading. Water misters in the crushers and along the conveyor belts would be utilized to suppress dust. Monitoring for compliance with air quality requirements would be conducted by UDAQ. GEM has agreed to abide by the limits of the 2012 St. George Air Quality Ordinance, in particular, ceasing operations when a sustained wind event of 30 miles per hour occurs.

**3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.**

The following components of the Human Environment and Resource Issues are not affected because they are not present in the project area: areas of critical environmental concern, BLM natural areas, environmental justice, (prime or unique); floodplains; threatened, endangered, or candidate plant species; wetlands/riparian zones; wild and scenic rivers; woodland/forestry; paleontology; wilderness characteristics; hydrologic conditions, wastes (hazardous or solid), wild horses and burros, and energy production. In addition, the following components of the Human Environment and Resource Issues, although present, would not be affected by this proposed action for the reasons listed in Appendix A of the EA: air quality, cultural and historic resources, fish and wildlife, fuels/fire management, BLM sensitive species, migratory birds; recreation, socio-economics, water resources. The proposed project would directly impact the 11.5 acre project area and the 2 acre expansion of the Blakes Lambing Ground haul road. Cultural and historic resources, fish and wildlife, geology/mineral resources, invasive species/noxious weeds; threatened, endangered, or candidate animal species; lands/access; livestock grazing; soils; vegetation, and visual resource components of the Human Environment and Resource Issues were analyzed in detail in section 4 of the EA. None of these would be significantly impacted because of the terms and conditions, conservation measures, and mitigation measures identified in the proposed action and section 2.2.4 of the EA.

The historic and cultural resources of the area have been inventoried. Seven cultural resource sites were identified within the Area of Potential Effect. Of these, three are recommended as eligible for the NRHP and all three are located along the haul route. As designed the proposed operations would have No Effect on historic properties as these areas would be avoided but due to the proximity of these sites along the haul route specific compliance and monitoring requirements are in place.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

The project was listed on the Environmental Notification Bulletin Board (ENBB) on October 25, 2010. An EA was prepared by Good Earth minerals and reviewed by the St. George Field Office. The EA and NOA were posted on the BLM St. George website in the middle of August with a 30 day comment period ending September 22, 2011. Twenty-two Notice of Availability letters were sent to the State of Utah, Washington County, The Shivwits Band of Paiutes Tribe, the City of St George, the City of Ivins, the City of Washington, and various parties or individuals.

The comment period was extended for another 30 days to October 21, 2011 as requested by various individuals in Sun River Community, St. George, UT. The St. George Field Office and representatives from Good Earth Minerals met with the public and members Sun River Community on September 22, 2011 to answer questions on the NEPA process and the proposed project. One comment was received during scoping, and one hundred



and thirty-eight comments were received during the comment period. Most of the comments were from the Sun River retirement community about five miles east of the proposed mine site. The comments were primarily concerns or objections to air quality impacts, mine visibility, noise, and assumed haul truck traffic through the Bloomington or Sun River Communities in St George, although that route was never an alternative in the EA. The comments are addressed in Table 7, Summary of Public Concerns on the draft EA and BLM Responses and minor corrections/edits for clarification purposes were made to the EA. The modifications did not change the proposed action or analysis of the EA.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The environmental effects to the human environment are fully analyzed in the EA. Based on the Fugitive Dust Control Plan-proposed watering control, the small size - 13.5 acres of disturbance, and limited blasting, it would be uncommon for dust from the mine to blow into the St. George area. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

The actions considered in the selected alternative were considered by the interdisciplinary team within the context of past, present, and reasonably foreseeable future actions. Significant cumulative effects are not predicted. A complete analysis of the direct, indirect, and cumulative effects of the selected alternative and all other alternatives is described in Chapter 4 of the EA.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership.**

The interdisciplinary team evaluated the possible actions in context of past, present, and reasonably foreseeable actions. There are no known related actions which would result in significant cumulative effects. A complete disclosure of the effects of the project is contained in section 4.3 of the EA.

**8. The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.**

The historic and cultural resources of the area have been inventoried and mitigation measures have been included for the sites identified. Seven cultural resource sites were identified within the Area of Potential Effect. Of these, three are recommended as eligible for the NRHP and all three are located along the haul route. As designed, the proposed operations would have No Effect on historic properties as these areas would be

avoided. Consultation with the State Historic Preservation Office (SHPO) was completed in accordance with Section 106 of the NHPA and they have concurred with a "no adverse effect" on cultural resources.

- 9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list.**

Mitigating measures to reduce impacts to wildlife and fisheries have been incorporated into the design of the proposed action. The USFWS lists 14 fish, wildlife, and plant species as Threatened, Endangered, or Candidate that could occur in Washington County, Utah. Of these, only the desert tortoise has the potential to occur within the project area. The project would have "no effect" on any other Threatened, Endangered, or Candidate species. The EA Appendix A checklist had a "no effect" on the Mojave desert tortoise initially but after consultation with the USF&WS the finding was revised and the EA has been changed accordingly. A single Mojave desert tortoise listed Threatened and Endangered species was found along the project haul route in 2010. The Mojave desert tortoise habitat is only marginally suitable, and because the tortoise population is suspected to be of low density, the project is thus unlikely to injure or kill any tortoises.

However, as incidental take is possible over the 20-year life of the mine, the project May Affect, and Would Likely Adversely Affect the desert tortoise. The project would have No Affect on Designated Critical Habitat for the Mojave desert tortoise. No other threatened or endangered plants or animals are known to occur in the area. Section 7 formal ESA Consultation initiated on February 23, 2012, and the USF&WS concurred with BLM's determination on March 13, 2012.

- 10. Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.**

The project does not violate any known federal, state, local or tribal law or requirement imposed for the protection of the environment. State, local, and tribal interests were given the opportunity to participate in the environmental analysis process. Furthermore, letters were sent to the Shivwits Band of Paiutes, Native American tribe concerning consulting party status, and there was no response from any of the tribes. A representative from Good Earth Minerals met with the Tribal Council to discuss the project and answer any questions. In addition, the project is consistent with applicable land management plans, policies, and programs.

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Jimmy Tyree, Field Manager

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Date

**DECISION RECORD**  
**Environmental Assessment UTU-87863**  
**DOI-BLM-UT-C030-2010-0010-EA**

**Plan of Operations Good Earth Minerals Gypsum Mine**

It is my decision to approve the Good Earth Minerals Plan of Operation in the Blakes Lambing Ground area in southwestern Washington County as described in the Proposed Action with modification of the haul road as discussed in Alternative B of DOI-BLM-UT-C030-2010-0010-EA.

**Authorities:**

The authority for this decision is under the Mining Law of 1872 as amended and 43 CFR 3809 regulations. Additionally, mineral resource development is recognized as an appropriate use of public lands in the St. George Field Office RMP (1999) that provides management direction for the mine claim area. BLM will consider approval of the proposed mining in a manner that (1) avoids or reduces impact on any sensitive resources and activities as identified in the St. George Field Office RMP (1999) and (2) is consistent with the rights of the Proponent and prevents unnecessary or undue degradation of the public lands. The EA also provides for mitigation measures to mitigate potential adverse impacts to any other resources and is contingent upon meeting all the measures listed below.

**Compliance and Monitoring:**

**Mojave Desert Tortoise**

As part of the project, the following tortoise-specific conservation commitments would be taken to ensure that the project would minimize impacts to the species. Gem will abide by all terms and conditions of the Biological Opinion.

**GEM Committed Minimization Measures**

a) GEM will fence the entire mine site (11.5 acres) with tortoise-proof exclusion fencing per USFWS guidelines (USFWS 2005) and install a tortoise-proof gate at the entrance. The fence will be inspected annually to ensure it is intact. Fence maintenance will be conducted on an as-needed basis.

b) GEM will clear inside the mine site after the boundary tortoise-proof fence is

installed.

- c) Road widening activities will include pre-construction tortoise surveys of planned disturbance area and biological monitor oversight of all road widening activities.
- d) All project-related vehicles will be restricted to 20 mph speed limits when traveling to or from the mine site on the Blake Lambing and Bloomington Mine Valley Road.
- e) All project-related staff will receive annual tortoise educational training by a desert tortoise biological monitor or an authorized desert tortoise biologist.

### **Reasonable and Prudent Measures**

The following reasonable and prudent measures are necessary and appropriate to minimize the incidental take of desert tortoises authorized by the biological opinion.

1-Measures will be implemented to prevent injury or death of desert tortoise by any project-related activity.

2-Measures will be implemented to minimize destruction, loss, degradation, and fragmentation of desert tortoise habitat by any project-related activity.

### **Terms and Conditions**

In order to be exempt from the prohibitions of section 7 of the Endangered Species Act of 1973, the BLM (and the Good Earth Minerals, LCC) must comply with the following terms and conditions, which implement the reasonable and prudent measures described above. These terms and conditions are nondiscretionary.

To implement reasonable and prudent measure number 1, the following terms and conditions will be implemented:

The designated contact person will be responsible for overseeing compliance with terms and conditions contained in this biological opinion. This representative should contact USFWS and the BLM if any problems occur. This representative will have the authority to halt activities associated with the project which may be in violation of these terms and conditions. This individual must be a biologist with qualifications of at least a desert tortoise biological monitor, and must monitor this project's activities in accordance with this opinion. Project activities will not begin until a biologist has been approved by USFWS. The biologist will be on-site during all fence installation activities, all road-widening activities, and once a year for educational tortoise training (as described below).

A USFWS-approved desert tortoise biological monitor or authorized desert tortoise biologist will provide a desert tortoise education program to all on-site mine employees



prior to the active season at the beginning of each calendar year, for the life of the project.

Prior to road widening activities, a biologist will walk the area adjacent to the road on the side that will be newly disturbed. The biologist will look for tortoises, tortoise sign, and tortoise burrows. If any burrows are found, the biologist will check for occupancy. If any tortoises are found, the biologist must:

- Immediately contact USFWS and the BLM;
- Ensure that an authorized desert tortoise biologist appropriately clears any tortoises out of the burrows per USFWS most recent Clearance and Handling Protocol;
- Coordinate with USFWS before determining where to place the cleared tortoises.

Prior to any ground disturbance on the mine site, the area will be fenced with tortoise proof exclusionary fencing (USFWS 2005). This requirement includes the access point to the mine site. In lieu of a specific gate design, coordinate further with us to ensure that USFWS approve of any gate design GEM plans to use at the access point. After the mine site is completely closed off from desert tortoise access and prior to mine activities, the area will be completely cleared of tortoises by either a desert tortoise biological monitor or an authorized desert tortoise biologist.

The tortoise-proof fencing will be checked annually to ensure it is still effectively keeping tortoises out. As needed, GEM will conduct fencing repair to ensure the integrity of the fencing is intact.

The use of firearms for target practicing or any other kind of recreational shooting is prohibited by any project-related staff. Project-related staff will not bring any pets on the project sites at any time.

Construction and maintenance vehicles will not exceed a speed of 10 miles per hour in Mojave desert tortoise habitat except on Federal, state and County roads, where the posted speed limit must be obeyed.

All trash will be disposed of in closed trash receptacles to avoid attracting ravens to the area.

Upon locating dead, injured, or sick desert tortoises during any project activities, the Project Proponent's contact person or authorized desert tortoise biologist must notify USFWS law enforcement, our Salt Lake City office and UDWR within 24 hours. If the tortoise is dead, do not touch or move it until a USFWS or BLM law enforcement individual approval. Written notification must be made within five calendar days with the following information: date, time, location of the carcass, photograph of the carcass, and any other pertinent information. Care must be taken in handling sick or injured animals to ensure effective treatment and care. Injured animals will be taken care of by the authorized desert tortoise biologist. Should any treated tortoises survive, the authorized desert tortoise biologist must contact us or UDWR regarding the final disposition of the animals.

To implement reasonable and prudent measure number 2, the following terms and conditions will be implemented:

Other than in an emergency situation, all vehicle maintenance activities will be conducted in maintenance facilities or within the operations area. Vehicle maintenance will not be conducted in areas of undisturbed habitat. Precautions will be taken to ensure that contamination of maintenance sites by fuels, motor oils, grease, etc. does not occur and such materials are contained and properly disposed of off-site. GEM will notify the BLM's St. George Field Office's hazmat coordinator immediately upon spills of petroleum-based or other toxic materials. At the approval of the hazmat coordinator, the site will be immediately cleaned up and the materials will be disposed of as directed by the hazmat coordinator and an authorized desert tortoise biologist.

All construction personnel would have fire tools and extinguishers available at all times for use if the occasion arises. Construction personnel would be trained in the use of fire tools and extinguishers in basic control procedures.

#### **Reporting Requirements**

Upon locating a dead or injured desert tortoise, initial notification must be made within one business day to our Division of Law Enforcement, Utah at telephone (435) 734-6446, our Ecological Services Office at telephone (801) 975-3330, the BLM St. George Field Office at telephone (435) 688-3333, and the St. George Office of the Utah Division of Wildlife Resources at telephone (435) 879-8694.

Instructions for proper handling and disposition of such specimens will be issued by USFWS Division of Law Enforcement consistent with the provisions of the Incidental Take Statement (see EA attached BO). Care must be taken in handling sick or injured animals to ensure effective treatment and care, and in handling dead specimens to preserve biological material in the best possible state.

#### **Archaeological Sites and Cultural Resources**

In compliance with Section 106 of the National Historic Preservation Act, the three documented cultural resource properties (42WS2157, 42WS5031, 42WS5034) located adjacent to the haul route and determined eligible to the National Register of Historic Properties (NRHP) will be protected through avoidance during haul route improvement activities. The following monitoring requirements will be followed to ensure project activities will have "no effect" on eligible NRHP cultural resource properties.

A qualified archaeologist who holds a valid Cultural Resource Use Permit from the Utah BLM will monitor all construction activities in and near the areas of the NRHP eligible properties.

Prior to construction activities, the three NRHP eligible site boundaries running adjacent along the haul route will be identified in the field with surveyors flagging by the monitor archaeologist in a manner which makes the site boundary easily visible and definable. No construction activities will be allowed within the identified cultural site boundaries.

After completion of identifying the cultural site boundaries with surveyors flagging, the monitor archaeologist will notify the St. George BLM archaeologist.

The monitor archaeologist will attend all pre-construction and project meetings when construction activities are scheduled to be in the area of the NRHP eligible properties. The monitor archaeologist will coordinate with the project construction foreman to identify and schedule monitoring requirements. The monitor archaeologist will notify the St. George BLM archaeologist when construction activities are scheduled in the areas of the NRHP eligible cultural resource properties.

A pre-construction field meeting with the construction supervisors and crews will include a discussion of the legal context of cultural resource property protection, the types of archaeological resources in the project corridor, the importance of avoiding adverse effects to cultural properties that could result from project development activities, the procedures for monitoring, and the protocols that will be followed in the event of new discoveries.

The monitor archaeologist will be present during construction activities in and near the locations of the eligible NRHP cultural resource sites to ensure construction activities do not encroach within the identified site boundaries. The monitor archaeologist will have the authority to temporarily halt construction to examine cultural resources, or newly discovered archaeological objects within the project corridor. After an examination of the materials, the monitor archaeologist will either authorize the resumption of project activities or require that all work should be halted in that location until appropriate evaluations and consultations between BLM, the UTSHPO, and other affected parties have been conducted.

Upon completion of construction activities in and near the locations of the NRHP eligible cultural resource site locations, the monitor archaeologist will notify the St. George BLM archaeologist.

### **Use and Occupancy**

Concurrence is required under 43 CFR 3715 for Use and Occupancy in addition to the Plan of Operations approval under 43 CFR 3809. Compliance with Use and Occupancy under the Mining Laws is required for any mining operation that is proposing to place, construct or

maintain an enclosure, gates, fences, or signs and/or they propose to occupy the site. GEM must follow all the terms and conditions for construction and maintenance of the tortoise fence, gates and signs as described. Any changes to the current plan will require concurrence by the BLM.

#### **Terms / Conditions / Stipulations**

1. GEM will conform to all Federal, State of Utah, County, and Local laws, ordinances (St. George Air Quality Ordinance) and regulations. GEM will acquire all permits, variances, easements, etc. required to operate within mine area. GEM will be required to obtain a Conditional Use Permit for operations involving processing equipment from Washington County prior to any surface disturbing activities. GEM will carry out any monitoring requirements and pay any off-set fees imposed by the permit.
2. All fugitive emissions from this operation will be kept in compliance with the provisions in Utah Division of Air Quality (UDAQ), Fugitive Dust Control Plans, which requires spray bars, dust suppressants, and the like to prevent excessive amounts of particulates from becoming airborne. GEM shall ultimately be responsible for dust abatement within the limits of the permitted area and is responsible for consultation with the Authorized Officer and local authorities for acceptable dust abatement and control methods. GEM will provide copies of permits, variances, etc. to the Authorized Officer upon request.
3. Freshwater will be used to control dust while mining, crushing, transporting, and road grading. Water misters in the continuous miners, crushers and along the conveyor belts will be utilized to suppress dust. Use of other dust palliatives such as chlorides, oils, or other chemicals requires prior approval of the BLM authorized officer. All dust palliative applied must not be prohibited for ground surface application by the EPA, state and local governments or any applicable law or regulation, as treatment material for reducing fugitive dust emissions.
4. All haul trucks will be covered and restricted to a 20 mile per hour speed limit.
5. GEM has agreed to abide by the limits of the new St. George dust control ordinance, in particular, ceasing operations when a sustained wind event of 30 miles per hour occurs.
6. All improvements and maintenance to access roads will be coordinated with Washington County Public Works (e.g., adding a dust suppressant, watering and blading).
7. Should the mine undergo a period of non-operation, the BLM authorized officer will be contacted within 15 days from any unplanned or extended closures. The site will be maintained in a safe and clean manner during non-operation with a daily presence on the mine site in accordance with the interim management plan.
8. Warning and directional signs will be placed to warn the public of heavy truck traffic and to provide directions for travel on the Blakes Lambing Ground road during hauling.



9. GEM is responsible for maintaining the existing access road used by their mining operations and the haul trucks. Roadway widths will not be increased nor alignment changes made without approval of the BLM authorized officer.
10. Existing roads or trails on public lands around the mine site will not be blocked or access denied except for brief periods of time while blasting. Warning signs or personnel on the roadways will be supplied by GEM.
11. Any surface or sub-surface archaeological, historical, or paleontological remains not covered in the Cultural Resource Project Record discovered during use, new construction, operation, or maintenance will be left intact; all work in the area will stop immediately and the authorized officer will be notified immediately. Recommencement of work will be allowed upon clearance by the authorized officer in consultation with the archaeologist.
12. If in connection with this work, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (Public Law 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the operator shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. GEM will continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
13. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the operations area at any time by GEM. GEM shall immediately report any release of hazardous substances (leaks, spills, etc.), caused by GEM or third parties, in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency. As required by law, GEM shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the right-of way/lease area.
14. Firearms may not be possessed within the boundaries of the mine area, either openly or under concealment, except by an officer, agent or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in law enforcement activities.
15. The operator will use predator/wildlife proof trash receptacles for all mining activities. Mine sites shall be kept clean and maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site in

compliance with all state and county requirements for waste disposal. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. "Waste" also includes the creation of micro-trash such as bottle caps, pull tabs, broken glass, cigarette butts, small plastic, etc. No micro-trash will be left at the mine sites.

16. At no time shall vehicle or equipment fluids (including motor oil and lubricants) be dumped on public lands. All accidental spills will be reported to the authorized officer and be cleaned up immediately, using best available practices and requirements of the law, and disposed of in an authorized disposal site. All spills of Federal or state listed hazardous materials which exceed the reportable quantities shall be promptly reported to the appropriate state agency and the authorized officer.
17. GEM shall protect all survey monuments found within the plan of operations area, to the extent possible, including, but not limited to, General Land Office and BLM Cadastral Survey Corners, reference corners, witness points, Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any survey monument, the operator shall immediately report the incident, in writing to the authorized officer and the respective installing authority if known.
18. Existing roads, structures, cattle guards, fences or drainage facilities, which are damaged by mining activity will be replaced or repaired by GEM to a condition equal to or better than that which existed before the start of the project within 30 days or as directed by the authorized officer.
19. There is potential for the spread of noxious and invasive weeds from equipment contaminated with weed seed and/or biomass. To reduce this potential, the authorized officer will require the following measures be taken: a) GEM will thoroughly power wash and remove all vegetative material and soil before transporting equipment to the work site to help minimize the threat of spreading noxious and invasive weeds. This includes trucks, trailers, and all other machinery. b) GEM will be responsible for the eradication of state-listed noxious weeds within the plan of operations area throughout the timeframes of the plan of operations. c) The operator will be responsible for consultation with the authorized officer and local authorities for implementing acceptable weed treatment methods. Any use of chemical treatments will be made using only chemicals approved in the *Final Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement* (June 2007b), by a state certified applicator who will abide by all safety and application guidelines as listed on the product label and Material Safety Data Sheet. d) Any reclamation efforts requiring seeding will be done with certified, weed-free seed, using a seed mix approved by the authorized officer (see Measure #20).
20. Use of herbicides shall comply with the applicable Federal and state laws. Herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, GEM shall obtain from the

- authorized officer written approval of a plan showing the type and quantity of material to be used, weed(s) to be controlled, method of application, location of storage and mixing areas, method of cleansing and disposing of containers, and any other information deemed necessary by the authorized officer. Emergency use of herbicides shall be approved in writing by the authorized officer prior to such use.

21. GEM shall seed all disturbed areas with the seed mixture listed in the table below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed/acre. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with state law(s) and within nine months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with state law(s) and available for inspection by the authorized officer.

**Approved Seed Mix**

Seed	Amount
Prostrate summer cypress ( <i>Kochia prostrata</i> )	2 lbs./acre
Four wing saltbush ( <i>Atriplex canescens</i> )	2 lbs./acre
Yellow sweetclover ( <i>Melilotus officinalis</i> )	2 lbs./acre
Sideoats gramma ( <i>Bouteloua curtipendula</i> )	2 lbs./acre
Brittle Bush ( <i>Encellia farinose</i> )	2 lbs./acre
Total	10 lbs./acre

22. The seed mixture shall be evenly and uniformly planted over the disturbed area. Seed shall be broadcast and the area shall be raked or chained to cover the seed. The seeding will be repeated for areas where the cover standard has not been achieved for five growing seasons after the initial seeding as determined by the authorized officer. Evaluation of growth will not be made before completion of the first growing season after seeding. The authorized officer is to be notified a minimum of 30 days prior to seeding of the project.
23. Gem is required to return the land to a useful condition and re-establish at least 70 percent of the pre-mining vegetation ground cover.

### **PLAN CONFORMANCE AND CONSISTENCY:**

The Project would occur on public lands administered by the BLM, St. George Field Office. The Project is in conformance with the St. George Field Office's RMP management objective to "provide continued opportunity for exploration and development under the mining and mineral leasing laws... [this] objective is intended to support national goals for energy and strategic minerals independence and local and state goals for economic health and diversity (BLM 1999:2.7)." The Project conforms to the following St. George RMP land use decisions:

MI-07 (BLM 1999:2.8) - Public lands in Washington County will remain available to mining location under the General Mining Act of 1872 and applicable regulations on 427,910 acres. The updated Locatable Mineral Management Map depicts mineral areas that will remain open (353,647 acres), open with restrictions (34,130 acres), and open with a plan of operation (40,452 acres). Restricted areas are those lands where mining locations are subject to special requirements of law and regulation primarily as a result of split-estate created under the Stockraising Homestead Act (BLM GIS data 2011)

### **Alternatives Considered:**

Only Good Earth Minerals proposed plan of operations within the project area and the No Action alternative was considered. Only the Blakes Lambing Ground – Bloomington Mine Valley road haul route was considered for analysis. Potential haul routes through the Bloomington/Sun River development and through the Bulldog Canyon area were considered but eliminated due to the significantly greater potential safety and environmental impact concerns. Two alternatives were considered for the modification of the Blakes Lambing Ground haul route. Alternative A, leave the road at it's current width with construction of turnouts for vehicle passage and Alternative B, the widening of the existing road to allow vehicle passage.

Under the No Action Alternative, the proposal would be rejected; there would be no direct, indirect, or cumulative impacts from the Proposed Action or Alternative B. The Proponent would still hold the mining claim in which the Project Area is located. Any future proposed mining would be subject to its own NEPA analysis. Alternative scenarios would have to be considered for GEM to develop the minerals on their mining claims pursuant to the Mining Law as amended and 43 CFR 3809 regulations. Other activities in the area would continue, such as utility maintenance, livestock grazing, and recreational use.

Alternative B, the widening of the existing Blakes Lambing Ground haul route verses Alternative A construction of turnouts for vehicle passage was selected due to public safety concerns. Although the widening of the haul route would incur an additional 2 acres of disturbance, it would be large enough to accommodate two-lane traffic, and prevent or reduce the potential for accidents.

### **Rationale for Decision:**

The decision to authorize the plan of operations for the GEM Gypsum Mine does not result in any undue or unnecessary environmental degradation and is in conformance with the St. George Field Office RMP (1999), and is consistent with Federal laws and regulations. Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) directs the Secretary to



manage public lands under the principles of multiple use and sustained yield in accordance with land use plans developed under the Act. The no action alternative was not selected because it will not meet the purpose and need for the action.

Locatable mineral extraction and processing from Federal mining claims is an integral part of BLM's program under authority of the Mining Law as amended and 43 CFR 3809 regulations. Additionally, mineral resource development is recognized as an appropriate use of public lands in the St. George Field Office RMP (1999) that provides management direction for the mine claim area. BLM will consider approval of the proposed mining in a manner that (1) avoids or reduces impact on any sensitive resources and activities as identified in the St. George Field Office RMP (1999) and (2) is consistent with the rights of the Proponent and prevents unnecessary or undue degradation of the public lands.

Alternative B, the widening of the existing Blakes Lambing Ground haul route verses Alternative A construction of turnouts for vehicle passage was selected due to public safety concerns. Although the widening of the haul route would incur an additional 2 acres of disturbance, it would be large enough to accommodate two-lane traffic, and prevent or reduce the potential for accidents.

Identification of issues for this assessment was accomplished by considering any resources that could be affected by implementation of the project. Resource issues were initially determined by the St. George Field Office staff specialists (Appendix A). The public was notified of the proposed action by sending a Notice of Availability of the EA. The project was listed on the Environmental Notification Bulletin Board (ENBB) on October 25, 2010. An EA was prepared by Good Earth Minerals and reviewed by the St. George Field Office. The EA and NOA were posted on the BLM St. George website in the middle of August with a 30 day comment period ending September 22, 2011. Twenty-two Notice of Availability letters were sent to the State of Utah, Washington County, The Shivwits Band of Paiutes Tribe, the City of St George, the City of Ivins, the City of Washington, and various parties or individuals. The comment period was extended for another 30 days to October 21, 2011 as requested by various individuals in Sun River Community, St. George, UT. The St. George Field Office and representatives from Good Earth Minerals met with the public and members Sun River Community on September 22, 2011 to answer questions on the NEPA process and the proposed project. One comment was received during scoping, and one- hundred and thirty-eight comments were received during the comment period. The comments are addressed in Table 7, Summary of Public Concerns on the draft EA and BLM Responses and minor corrections/edits for clarification purposes were made to the EA. The modifications did not change the proposed action or analysis of the EA.

Potential conflicts with other resources are mitigated by the conservation/mitigation measures and reclamation plans identified in sections 2 and 4 of the EA. All quarrying related activities must be carried out in conformance with the mine and reclamation plans in the EA.

Conformance with these measures/plans will ensure that substantial adverse impacts to the environment and other resource values will not occur. Surface activities will be monitored by authorized representatives of the BLM St. George Field Office.

**Appeal of the Decision:**

If you are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request must be received in the Utah BLM State Office at, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at St. George Field Office, 345 E. Riverside Dr., St. George UT 84790 which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at St. George Field Office, 345 E. Riverside Dr., St. George UT 84790 within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

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Jimmy Tyree, Field Manager

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Date

**Attachments:** Form 1842-1

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

1. NOTICE OF APPEAL ..... A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE  
NOTICE OF APPEAL..... Bureau of Land Management  
St. George Field Office  
345 East Riverside Drive  
St. George, Utah 84790  
  
ALSO COPY TO  
SOLICITOR..... Office of the Solicitor  
6201 Federal Building  
125 South State Street  
Salt Lake City, Utah 84138
3. STATEMENT OF REASONS.. Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the Bureau of Land Management office where you originally filed your appeal; and with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 801 North Quincy St., Suite 300, Arlington, VA 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.  
  
ALSO COPY TO  
SOLICITOR..... Office of the Field Solicitor  
6201 Federal Building  
125 South State Street  
Salt Lake City, Utah 84138
4. ADVERSE PARTIES..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U. S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U. S. Department of the Interior, Washington, D.C. 20240.
5. PROOF OF SERVICE..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 North Quincy St., Suite 300, Arlington, VA 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

#### 6. REQUEST FOR STAY .....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed (see 43 CFR 4.21). If you wish to file a petition pursuant to 43 CFR 4.21 or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR Sec. 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay: Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the likelihood of the appellant's success on the merits, (2) the likelihood of immediate and irreparable harm if the stay is not granted, (3) the relative harm to the parties if the stay is granted or denied, and (4) whether the public interest favors granting the stay.

*Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.*

*NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practices involving appeals.*

#### **43 CFR SUBPART 1821 - GENERAL INFORMATION**

Sec. 1821.10 *Where are BLM offices located?* (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

##### *STATE OFFICES AND AREAS OF JURISDICTION:*

Alaska State--Alaska  
Arizona State Office--Arizona  
California State Office--California  
Colorado State Office--Colorado  
Eastern States Office--Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River  
Idaho State Office--Idaho  
Montana State Office--Montana, North Dakota and South Dakota  
Nevada State Office--Nevada  
New Mexico State Office--Kansas, New Mexico, Oklahoma and Texas  
Oregon State Office--Oregon and Washington  
Utah State Office--Utah  
Wyoming State Office--Wyoming and Nebraska

(b) A list of names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, D.C. 20240



SUBPART 1821.2B OFFICE HOURS, TIME AND PLACE FOR FILING

Sec. 1821.2-1 Office hours of the State Offices. (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspections of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight savings time, whichever is in effect at the city in which each office is located.

Sec. 1821.2-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.